

# Practice Brief: Release of Information Laws and Regulations

## Background

Releasing health information to other healthcare providers and authorized users is a basic function when managing health information. To the untrained eye, the distribution (or release) of health information may appear to be a simple task. Closer analysis of the process reveals that many forces and factors must be addressed to ensure that the release of information (ROI) is prompt, accurate, complete, and confidential.

Factors that impact the cost of release of information include: [1.2](#)

- labor costs involved with ensuring authorization appropriateness
- labor costs and software associated with logging of requests to a database
- labor costs involved in physically retrieving the health information
- labor costs associated with refiling retrieved health information
- labor costs associated with the physical copying of health information
- expense costs for paper, toner, and equipment maintenance involved in copying
- capital costs associated with acquiring copying equipment
- handling expense involved in preparing a document for mailing
- postal expense for mailing
- expense associated with invoicing for copies
- bad debt "write-off" expense
- "non-billable" request expense
- real estate costs of storage space and copier work space

Typically, the HIM unit of an enterprise faces the challenge of providing the ROI function, with little or no resources specifically budgeted for the service. Thus, the challenge facing the health information manager is to provide ROI services within the limitations of the department's operating budget. Departments that do not or cannot commit resources to this function must choose between operating with a constant backlog of requests or contracting out all or part of the release of information function. In addition, the ever-increasing volume of "non-billable" requests adds to the overhead. This "non-billable" request expense may also become an overhead expense to healthcare providers that outsource the release function. Health information managers working in states that have established release of health information laws or regulations face the additional challenge of providing the ROI service within the constraints of the state law or regulation.

## Legal and Regulatory Requirements

The most recently passed statutes represent a compromise between the parties and are more representative of the costs involved in the ROI process. Currently no uniform federal release of

information cost law, regulation, or guideline exists. The majority of states have specific laws and regulations that should be used in establishing facility release of information copy cost fee schedules. These state release of information cost laws and regulations tend to vary depending upon the requesting entity, i.e., workers' comp, state disability, or attorney/ patient. State laws and regulations should be carefully researched to determine whether ROI cost guidelines vary with the requesting entity. Health Care Financing Administration (HCFA) rules set release of health information cost reimbursement for PRO (Peer Review Organization) requests for health information on Medicare patients at .07 cents per page.

## Recommendations

- Before developing your organization's policies and procedures, investigate and become knowledgeable about state laws addressing the patient's right to access and acquire copies of his or her health records
- Patient health information must be available to meet the needs of continued patient care, legal requirements, research, education, and other legitimate uses
- Each healthcare provider should develop a release of information policy and copy cost fee schedule that meets the needs of its patients, physicians, researchers, and other legitimate requesters. The policy should comply with legal and regulatory requirements
- The facility's policies and patient bill of rights should address granting agents of the enterprise and ROI services access to the patient health information. The Joint Commission on Accreditation of Healthcare Organizations' Information Management (IM) standards address granting access to patient information to agents and contractors of the enterprise
- In the absence of specific state or federal legal and regulatory requirements for release of information cost, providers should establish fees that are appropriate, legitimate, and customary. Comparing ROI fee schedules with other local facilities could be interpreted as price-fixing and could lead to antitrust implications
- Health information professionals should be actively involved with administration when negotiating managed care contracts to ensure adequate reimbursement for copies
- When dealing with out-of-state requests for health information, the state release of information cost law/regulation of the state where the healthcare provider is located should prevail, unless state law or legal counsel advises otherwise
- A healthcare provider would be wise to request a clause in the contract that allows the organization to reserve the right to renegotiate the contract should the state law change

You may view an alphabetical listing by state of release of information laws and regulations by clicking on one of the following links:

[Alabama - Iowa](#) [Kansas - Montana](#) [Nebraska - Rhode Island](#) [South Carolina - Wyoming](#)

## Notes

1. Dunn, Rose. "Copying Records: The Saga Continues." *For the Record* 9, no. 7 (1997): 18-25.
2. Dunn, Rose. "Copying Costs: Help is as Close as Your 1040." *For the Record* 10, no. 7 (1998): 22-23.

## **References**

Dunn, Rose. "Copying Records." *For the Record* 4, no. 18 (1992).

Thompson, Ann L. "Medical Records Copying Services: Are They Worth the Cost?" *For the Record* 9, no. 25 (1997): 4.

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